

CODE OF CONDUCT

**FOR REGISTERED TRAINING ORGANISATIONS DELIVERING
GENERAL INDUCTION TRAINING IN NSW UNDER THE NATIONAL
CODE OF PRACTICE FOR INDUCTION FOR CONSTRUCTION WORK**

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Code of Conduct for Registered Training Organisations Delivering General Induction Training in NSW under the
National Code of Practice for Induction for Construction Work

2009

WorkCover NSW

New South Wales Government

Disclaimer

This publication may contain occupational health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website (www.legislation.nsw.gov.au) or by contacting the free hotline service on 02 9321 3333.

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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CONTENTS	PAGE
BACKGROUND	2
PURPOSE OF THIS CODE OF CONDUCT	3
PART 1	
1.1 ETHICAL AND PROFESSIONAL BEHAVIOUR	4
1.2 MODEL OF PUBLIC DUTY	4
1.3 BRIBES, GIFTS AND BENEFITS	5
1.4 COMPETENCE	6
1.5 CONFLICT OF INTEREST	6
1.6 DRUGS AND ALCOHOL	6
1.7 DISCRIMINATION	6
1.8 POLITICAL PARTICIPATION	7
1.9 PUBLIC COMMENT	7
PART 2	
2.1 PARTICIPATION IN BRIEFING SESSIONS	8
2.2 DANGEROUS WORK PRACTICES	8
2.3 IDENTIFICATION AS A WORKCOVER NSW APPROVED RTO	8
2.4 COLLECTING WORKCOVER NSW FEES	8
PART 3	
3.1 FALSE DECLARATIONS	9
3.2 COOPERATION WITH WORKCOVER NSW	9
3.3 NOTIFICATION	9
3.4 REPORTING BREACHES OF THE CODE	10
3.5 DISCIPLINARY ACTION	10
3.6 REVIEW OF WORKCOVER NSW DECISIONS	10
PART 4	
4.1 HEALTH AND SAFETY COMPLIANCE	11
4.2 COPYRIGHT	11
4.3 CONFIDENTIALITY	11
4.4 FURTHER HELP	12
4.5 GLOSSARY	12
APPROVED RTO DECLARATION	13

BACKGROUND

In May 2007, The Australian Safety and Compensation Council (ASCC) declared the *National Code of Practice for Induction for Construction Work* (National Code). The National Code provides guidance to persons working in the general and residential construction sectors on the types of induction training that may be needed to provide construction workers with an awareness and understanding of common hazards on construction sites and how they should be managed. Adoption of the National Code by the Australian, State and Territory governments will reduce inconsistency and confusion for employers and workers in the construction industry by having one set of arrangements throughout Australia. The adoption of the National Code in NSW is from 1 September 2009.

For accuracy, this document's principal focus is on that aspect of the National Code that deals with general induction training requirements for persons working in the construction industry. The site induction and task-specific induction training (the other focus of the National Code) are not covered in this Code of Conduct. However, this does not remove the requirement for principal contractors and employers to ensure that site induction and task-specific induction training is undertaken as required by the *Occupational Health and Safety Regulation 2001* and any other obligations imposed by OHS and workers compensation legislation.

General induction training provides persons entering the construction industry with a basic knowledge of requirements under OHS laws, the common hazards and risks likely to be encountered on construction sites and how these risks should be controlled.

Part 6 of the National Code requires general induction training to be delivered and assessed in accordance with the Australian Quality Training Framework (AQTF) by a Registered Training Organisation (RTO) with the relevant scope of registration. RTOs are responsible for ensuring that general induction training they conduct meets the requirements of the National Code and the *Occupational Health and Safety Regulation 2001*.

In order to ensure the quality and integrity of general induction training in areas where OHS requirements are integrated with the vocational education and training (VET) sector, a joint application process between WorkCover NSW and the NSW State Training Authority (STA), the Vocational Education and Training Accreditation Board (VETAB), has been effected. Under this arrangement, the RTO is required to nominate the trainers (nominated trainers) that will be delivering the training, and is responsible for ensuring that they comply with both the *Administration Guidelines for Registered Training Organisations delivering General Induction Training in NSW under the National Code of Practice for Induction for Construction Work* and with this Code of Conduct.

PURPOSE OF THIS CODE OF CONDUCT

This Code of Conduct (Code), for delivery and assessment of general induction training in NSW, has been prepared to assist RTOs and their nominated trainers in achieving a professional standard of business practice. It is the responsibility of RTOs to ensure that they, and their nominated trainers, act in accordance with the Code and the trust placed in them by the community.

While this Code refers primarily to the obligations of RTOs, it is understood that, even where not specifically referred to, RTO nominated trainers are also deemed to be bound by this Code. This is in recognition of the fact that the nominated trainer is acting on behalf of the RTO which has the obligation to ensure that the delivery and assessment of general induction training is provided at an appropriately high standard within the principles of ethical decision-making, as described in this Code.

The Code describes the responsibilities and standards of behaviour required of any person or organisation providing services on behalf of WorkCover NSW.

The Code has been developed in accordance with the principles of ethical decision-making:

- Respect for the law
- Respect for the system of government
- Respect for the community and other people
- Integrity
- Diligence
- Efficiency
- Accountability.

The Code deals with situations where an RTO may be unsure of the appropriate course of action. The Code is also a guide to assist in taking responsible decisions.

The Code is supported by WorkCover NSW business sector requirements such as specific Guidelines and other performance standards required of RTOs.

Compliance with the Code is part of the Conditions of Approval for RTOs. RTOs are required to read and sign the *WorkCover NSW Approved Registered Training Organisation's Declaration*, which obliges them to abide by this Code. They are also required to ensure that their nominated trainers comply with this Code when delivering general induction training.

Where an RTO is providing more than one service to WorkCover NSW, an offence in one area can lead to disciplinary action across all areas of approval. Any breach of the Conditions of Approval may lead to suspension, cancellation or prosecution.

To ensure that RTOs comply with their conditions of WorkCover NSW approval, RTOs must agree to be reviewed by WorkCover NSW and agree to cooperate with authorised WorkCover NSW staff conducting review activities.

The Code may be reviewed and re-issued periodically by WorkCover NSW. For the most current version please visit the WorkCover website.

PART 1

1.1 Ethical and professional behaviour

Ethical behaviour means that RTOs are fair and honest when dealing with general induction training candidates. RTOs and their nominated trainers are viewed as public officials by the community and must act accordingly. All decisions an RTO makes must show good judgement and be justifiable. RTOs must show professional behaviour at all times during the conduct of their duties.

The Code provides guidance to assist RTOs in deciding on the appropriate course of action in a number of specific situations. However, it is not possible for the Code to describe all the circumstances that may require the exercise of ethical behaviour.

In difficult situations RTOs will need to be guided in their actions and decision-making by referring to the principles that underpin the Code (see Introduction) and by considering the following issues:

- Is the action/decision lawful?
- Is the action/decision consistent with the spirit and intent of this Code and other WorkCover NSW materials?
- Is the action/decision consistent with the spirit and intent of the WorkCover NSW scheme that the RTO is a part of?
- What are the consequences of the action/decision for – the public? – for WorkCover NSW? for the integrity of the RTO?
- Can the action/decision be justified – to WorkCover NSW? – to an independent person?

RTOs must take all relevant facts into consideration when making a decision and must not consider irrelevant facts.

Services must be efficiently organised to minimise disruption and avoid unnecessary costs to clients and their workplaces.

All services must be delivered to the performance standards described in the RTO's Conditions of Approval and in line with the standards of professionalism expected of RTOs.

1.2 Model of public duty

The Independent Commission Against Corruption (ICAC) has developed a Model of Public Duty. RTOs approved by WorkCover must act in accordance with the Model.

1. Serving the public interest above all else. This is demonstrated by:

- not serving own interests
- managing conflicts of interest.

2. Acting with integrity through the values below.

Honesty

- Obeying the law.
- Following the letter and spirit of policies and procedures.
- Fully disclosing actual or potential conflicts of interest.
- Observing codes of conduct.
- Recording reasons for decisions.
- Establishing audit trails.
- Submitting to scrutiny.
- Keeping proper, accessible records.

Objectivity

- Being fair to all.
- Considering only relevant matters.
- Being fully informed.
- Dispassionately assessing without fear, favour or deference.
- Giving reasons for decisions, where appropriate.
- Revealing all appeal avenues available.
- Giving all relevant information.
- Communicating with clarity and sensitivity.
- Reporting and dealing with suspected wrongdoing.
- Acting ethically above loyalty to colleagues or supervisors.

3. Showing leadership. This is demonstrated by:

- illustrating the worth of these values by example
- promoting these values to others
- striving for excellence.

1.3 Bribes, gifts and benefits

A bribe is any offer of money, gift, service or a benefit that is offered to persuade a person to act other than according to their normal duties.

RTOs must not accept any offer of money, gifts, services or benefits that would cause them to act other than according to the conditions of their approval.

An RTO must inform any person who offers them such money, gifts, services or benefits that it is against the Code to make such an offer.

To protect the integrity of RTOs, WorkCover NSW requires that an attempt to bribe an RTO must be reported to the relevant WorkCover NSW business sector.

1.4 Competence

RTOs are approved by WorkCover NSW on the basis of the RTO upholding high levels of professional expertise. It is expected that RTOs maintain a high level of competence of themselves and their nominated trainers. WorkCover NSW may revoke the approval of an RTO if there is evidence of deterioration in the RTO's standard of competence.

1.5 Conflict of interest

A conflict of interest is a situation where an RTO or their nominated trainer could be influenced (or seen to be influenced) by a personal interest in carrying out their duties.

Sound judgement must be used to avoid conflicts of interest.

Examples of possible conflicts of interest include:

- Undertaking services for:
 - friends and relatives
 - Businesses in which the RTO, their nominated trainers, friends or family have an interest
 - personal beliefs or attitudes that can influence providing services impartially
 - personal relationships with people the RTO is dealing with that go beyond the level of a professional working relationship
 - any employment, financial or other personal interest that could directly or indirectly influence or compromise the RTO or nominated trainer in performing services
 - disclosing sensitive or confidential information gained through employment by WorkCover NSW to another organisation.

RTOs can contact their WorkCover NSW business sector for advice on dealing with conflicts of interest.

1.6 Drugs and alcohol

The capacity of an RTO and its officers or nominated trainers to exercise sound judgement must not be impaired by the use of alcohol, drugs or other substances.

Services must never be provided under the influence of drugs and alcohol.

A breach of this condition will result in immediate cancellation of an RTO's approval.

1.7 Discrimination

When performing services, an RTO must comply with NSW anti-discrimination legislation and not discriminate against other people on any grounds covered by anti-discrimination legislation (such as sex, marital status, pregnancy, age, race, ethnic or national origin, disability, sexual preference, sexual harassment, religion or political belief).

1.8 Political participation

RTOs have the right to enter into public debate OR issues of public concern. However, RTOs must ensure that any participation in political matters does not result in conflict with their duties as an RTO delivering general induction training in NSW under the National Code. This is important in order to maintain public confidence in the impartiality of the services and decisions of RTOs.

1.9 Public comment

RTOs have the right to take part in public debate on issues of public concern. However, RTOs must be careful that public comments do not appear to be an official comment on behalf of WorkCover NSW or the Government.

If elected or nominated as a spokesperson for a professional or community association, RTOs, their officers or nominated trainers are entitled to make public comments about relevant issues. In making such statements, it must clearly be acknowledged that those comments are made on behalf of that association.

PART 2

2.1 Participation in briefing sessions

From time to time WorkCover NSW will request that RTOs attend briefing sessions designed to advise of changes to any relevant matters. WorkCover NSW will advise if attendance at these events is compulsory.

2.2 Dangerous work practices

RTOs must immediately cease an activity if it would lead to the client or other persons being placed in danger or injured.

RTOs must advise WorkCover NSW immediately if an activity that they are participating in promotes an unsafe work practice.

2.3 Identification as a WorkCover NSW approved RTO

Proof of identity as a WorkCover NSW approved RTO allows for verification of approval. The RTO's WorkCover NSW Approval letter must be shown to each client and other people who need to confirm that WorkCover NSW has approved the RTO to deliver and assess general induction training.

2.4 Collecting WorkCover NSW fees

Apart from the administration fee that WorkCover NSW approved RTOs have to pay for each person to be issued with a Construction Induction Card, RTOs must not collect any funds under the auspices of WorkCover NSW. For example, they must not collect outstanding invoices for persons or organisations separate to their own.

PART 3

3.1 False declarations

A WorkCover NSW approved RTO must not make false or misleading declarations in their dealings with WorkCover NSW or during the performance of their service activities. A declaration may be misleading if information is omitted or presented in a manner that enables a misleading view of a situation to be formed. This includes:

- failure to comply with reporting requirements
- falsifying records or other documents.

RTOs must not collude with clients or other parties with the intention of providing false or misleading information. RTOs must take all measures to maintain the integrity of the services they provide and their records.

3.2 Cooperation with WorkCover NSW

It is a condition of approval of RTOs that they agree to be audited by WorkCover NSW as required. RTOs must cooperate fully with WorkCover NSW officers who are undertaking audit and verification activities. This includes:

- responding honestly to questions
- ensuring availability of records
- cooperating fully with WorkCover NSW officers conducting approval and verification activities such as information gathering, observation, monitoring, audits and reviews.

RTOs must be professional, polite and cooperative in their dealings with WorkCover NSW staff at all times.

Obstructive and unreasonable behaviour may result in RTO approval being denied or revoked, or disciplinary action being instigated.

3.3 Notification

WorkCover NSW has a record of each RTO's details. From time to time WorkCover NSW will contact RTOs regarding new initiatives, changes to services, documents, material requirements, Conditions of Approval, changes in legal requirements, etc.

RTOs must advise WorkCover NSW of any of the notifiable events as specified by the relevant WorkCover NSW business sector. This includes, but is not limited to: suspension or cancellation by an STA of the RTO's registration; cancellation by an STA of the RTO's general induction training scope of competency; an RTO ceasing to offer the general induction training scope of competency; an RTO ceasing business; any other event which may compromise, or impact upon, the RTO's ability to deliver general induction training to an appropriate standard.

3.4 Reporting breaches of the Code

RTOs must report any known or suspected corrupt behaviour or breach of the Conditions of Approval to the relevant WorkCover NSW business sector. This includes, but is not limited to, any actions by their nominated trainers delivering general induction training that are either corrupt or would lead to this Code being breached.

3.5 Disciplinary action

RTOs play a vital part in delivering services to improve health and safety in NSW.

The competence and integrity of RTOs are essential to the success of various WorkCover NSW initiatives.

To ensure that RTOs comply with their Conditions of Approval, WorkCover NSW will audit the behaviour and performance of RTOs. This audit process may include, but is not limited to, observation, monitoring, audits and reviews.

WorkCover NSW will also investigate any complaints made against an RTO in relation to their performance or behaviour.

Where a review or investigation by WorkCover NSW reveals a breach that impacts on the Conditions of Approval of an RTO, WorkCover NSW will take action depending upon the nature and severity of the breach. These actions may include:

- issuing a warning letter
- convening a counselling interview
- convening a 'show cause' interview
- reviewing an RTO's approval
- suspending an RTO's approval
- cancelling an RTO's approval
- applying a fine or penalty
- commencing prosecution action.

Criminal proceedings may also be taken where fraud is suspected.

3.6 Review of WorkCover NSW decisions

RTOs may appeal against any WorkCover NSW disciplinary decision. All appeals will be internally reviewed and a decision provided.

PART 4

4.1 Health and safety compliance

WorkCover NSW requires that its RTOs comply with all OHS, injury management and workers compensation legislation. This includes providing workers compensation insurance coverage for all employees and developing safe work practices and procedures.

4.2 Copyright

Except as expressly provided in the *Copyright Act 1968*, no part of WorkCover NSW publications may be reproduced by any means (including electronic, mechanical, microcopying, photocopying, recording or otherwise) without prior written permission from WorkCover NSW.

RTOs need to obtain permission from WorkCover NSW if they intend to use WorkCover NSW publications in any way other than as approved by the relevant WorkCover NSW business sector. For example, an RTO cannot reproduce for sale guides that have been published by WorkCover NSW.

4.3 Confidentiality

RTOs are bound by privacy legislation (*Privacy and Personal Information Protection Act 1998*) and must treat all information obtained as a WorkCover NSW approved RTO as confidential.

This means that information collected must only be used for the purpose for which it was originally collected.

All information related to clients must be kept in a secure manner. RTOs must have a secure storage system for their records.

Information related to clients can only be disclosed to other persons with written authority from WorkCover NSW.

Client information may also be disclosed if law requires the disclosure or when there is reason to believe that the use or disclosure is reasonably necessary for:

- reducing or preventing a serious or imminent threat to an individual's life, health or safety, or preventing a serious threat to public health or safety
- preventing, detecting, investigating, prosecuting or punishing of criminal offences and other breaches of the law that attracts a penalty
- protection of public revenue
- preventing, detecting, investigating or remedying of seriously improper conduct or prescribed conduct
- the preparation or conduct of proceedings before any court or tribunal.

Further information may be obtained from www.lawlink.nsw.gov.au/privacynsw.

4.4 Further help

RTOs can contact the following WorkCover NSW business sector for further advice and assistance regarding the Code:

Third Party Management Unit
WorkCover NSW
Locked Bag 2906
LISAROW NSW 2252
Ph: 1800 855 969
Fax: 02 9287 5994
Email: thirdparty@workcover.nsw.gov.au

4.5 Glossary

The following terms are used in this document:

Code means *The Code of Conduct for Registered Training Organisations Delivering General Induction Training in NSW under the National Code of Practice for Induction for Construction Work*.

Conditions of Approval means this Code and additional WorkCover NSW business sector requirements such as Guidelines, and other Conditions of Approval that describe the performance standards required of the RTO. Taken together, these materials constitute the Conditions of Approval with which the RTO must comply.

General Induction Training means training that meets the requirements of the *National Code of Practice for Induction for Construction Work*.

Nominated Trainer means those trainers, which an approved RTO has nominated to WorkCover NSW, and whose nomination WorkCover NSW has accepted, to deliver and assess general induction training in NSW.

Notifiable event means any event, circumstance or situation that is required to be notified by an approved RTO to the relevant WorkCover NSW business sector.

National Code means the *National Code of Practice for Induction for Construction Work* which was declared by The Australian Safety and Compensation Council in May 2007 in order to provide guidance to persons working in the general and residential construction sectors on the types of induction training that may be needed to provide construction workers with an awareness and understanding of common hazards on construction sites and how they should be managed.

RTO refers to Registered Training Organisations registered with the NSW Vocational Education and Training Accreditation Board (VETAB).

VETAB means the NSW Vocational Education and Training Accreditation Board.

WorkCover NSW business sector means the business sector within WorkCover NSW that approves an RTO to provide services to WorkCover NSW.

WorkCover NSW approved RTO means any RTO approved by WorkCover NSW to deliver and assess general induction training in NSW.

WORKCOVER NSW APPROVED REGISTERED TRAINING ORGANISATION'S DECLARATION

I acknowledge that I have been provided with a copy of the *Code of Conduct for Delivery of General Induction Training in NSW Under the National Code of Practice for Induction for Construction Work*.

I have read, and agree to comply with, the terms and conditions set out in the Code. I also understand that I am required to comply with any additional Conditions of Approval that are specified by the relevant WorkCover NSW business sector.

I am aware that any breach of the Conditions of Approval may result in an RTO's WorkCover NSW approval being suspended or cancelled, or prosecution.

RTO Name *(please print)*

Address _____

Phone number _____

Email Address _____

Name of RTO Representative _____
(please print)

Signature of RTO Representative _____

(Date) ____/____/____

Witness name _____
(please print)

Witness signature _____

(Date) ____/____/____ Place _____

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